THE NATIONS ADDRESS TO THE Committee of Grievances in Parliament, For the Taking Off the CORPORATION OATH, IN Behalf of all Cities, Towns-Corporate, Aldermen, Bayliffs, Burgeſſes; as alſo of Sheriffs, Lord Lieutenants, and Deputy-Lieutenants of Counties, Miniſters, and all others concerned for the Repealing thoſe Acts, which impoſe the Oath following.

The OATH.

I A. B. do ſwear, That it is not Lawful, upon any pretence whatſoever, to take Arms againſt the King. And that I do abhor that Traiterous poſition, of taking Arms by his Authority, againſt his Perſon, or againſt thoſe that are Commiſſionated by Him, in purſuance of ſuch Commiſſions. And that I will not, at any time endeavour any Alteration of Government, either in Church or State.

IN this Oath, we have the *Matter*, and the *Form* of Words, that is the *Subſtance*, and *Compoſure*: And there are Three Parts of it. The firſt Part is not conſiſtent with *Judgment*: The Second with *Truth*: The Third with *Righteouſneſs*.

I will take up the Laſt part Firſt. *And I will not endeavour any Alteration of Government.* There is no Government on Earth ſo perfect, that it has need of Laws, like the *Medes* and *Perſians*. Government may be conſidered in the *Adminiſtration*, (according to Politicks) or the *Conſtitution*. The Word *Government* is ſet down here indefinitely, without Diſtinction. Alteration of Laws, and ſo *Government* in the *Adminiſtration*, is as neceſſary many times upon emergent occaſions, to the *Body Politick*, as the freſh Air is to the *Natural*. This Oath was once brought in to the Parliament, to have been made common. It were a thing not Righteous, a deſtructive thing, to have ſuch an Engagement laid on perſons in ſuch a capacity: It were injurious, to have it laid on any Free-holders, or Free-Subjects, as we are. The Conſtitution of our Nation, as Parliamentary, is ſuch, that no *Law* can be *Eſtabliſhed* or *Repealed*, but it muſt paſs the Houſe of *Commons*; and ſo the whole *Body* concurr in their *Repreſentatives* to every Alteration *of* (or *in*) the *Government* which is made, if it be *Legal*: No Houſe of *Commons*, but is Choſen by the People. *Every* Engliſh-man *is intended to be here preſent, either in Perſon, or by Procuration; and the Conſent of the Parliament is taken to be every Mans Conſent*, ſays Sir *Thomas Smith*, *De Rep. Angl. l. 2. c. 2.* "Nay, while the King, *Conſilio & Conſenſu Baronum Leges olim impoſuit Univerſo Regno*, "by the Counſel and Aſſent of his "Barons, did give Laws to his whole Realm, *Conſentire inferior quiſque viſus eſt in perſona Domini ſui Capitalis pro ut hodie per Procuratores Comitatus*, "every Inferior ſeemed to conſent in the perſon of his Chief Lord; as now they do by their "*Burgeſſes*, and *Knights* of the Shires, ſays Sir *Henry Spelman*. This is ſo true, that in this ſenſe it is, that the Laws are ſaid to be *Quas vulgus elegerit, Which the People ſhall chooſe*. Now, then, if every Free Subject hath a Fundamental Liberty to Chooſe Knights, and Burgeſſes; and accordingly to inform them of their Grievances, and Petition them for Redreſs and in them, as their Repreſentatives, do conſent to the Alteration of Government and Laws, (if there be any paſs) as profitable to the Nation: How can ſuch an Oath be impoſed on him, *That he will not endeavour any Alteration*, as this? Is not Chuſing Burgeſſes; informing them, Petitioning them, Acting and Legally Conſenting in them, to this end, *An Endeavour*; and that as much as can be in their Place and Calling? And no more than an Endeavour in their *Place and Calling*, was Sworn in the *Covenant*. It is true, that New *Laws* was made, and Old Repealed, without Alteration of the *Conſtitution*, but not without Alteration of *Government*, becauſe *Government* takes in both the *Adminiſtration* and *Conſtitution*. Let us ſuppoſe the word *Government* confin'd only the Conſtitution. This is the Conſtitution of the Government in the *State*, which is a *Legal Monarchy*; and this indeed we are ſo far bound from endeavouring to Alter, (now we are conſtituted a Common-wealth) that I think it not alterable by the King himſelf, and *Parliament* (though it might be ſo a little a while ſince, when they were a *Convention*) becauſe the Supream Power, for the *Adminiſtration*, muſt be ſuppoſed in all Communities, to be derived *from*, and held *by* the *Conſtitution*. But as for Government in the *Church*; We are to know, and to acknowledge the Conſtitution it ſelf hereof, is but a Law of the *Adminiſtration*, in Reference to the *State*. And conſequently, when all Laws for the Adminiſtration are liable to the Regulations of Parliaments; the great Queſtion will remain, How theſe men, who are *Presbyterian*, or *Independant*, in their Judgment, and think Epiſcopacy againſt the Scripture, can be denyed the *Endeavour* only before mentioned (which conſiſts but in Chooſing *Repreſentatives*, and doing no more than the *Conſtitution* allows) in order to the Proſecution of what they think themſelves obliged to in Conſcience, both by *Oath* and the *Word of God*? Is not the Foundation *Liberty* of the whole People, and our ſelves with them, here in danger? Judg ye, that are Wiſe; and what an Anointed Plot [illegible] had here in the Nation, that an Allegiance in effect, ſhould be Sworn to the Biſhops, as well as to the King, by ſuch Impoſitions?

For the *Words* then (or *Form*,) I wonder at this Rigor in the Compiler, that a man muſt Swear, *Not to endeavour any Alteration*. Had it not been enough to be Engaged not to endeavour any Alteration of the Subſtance of our Government, Epiſcopacy in the Church, and Monarchy in the State; but it muſt be, *Not Any Alteration*? It were well, that we were ſo abſolutely perfect. And again, muſt we not at *any time* endeavour any Alteration? What if times ſhould turn, and we be in a Confuſion, as in *Cromwell's* time, and immediately after? What if any ſuch like chance, or changes come? Muſt theſe Men be bound up, that they cannot endeavour to render back this Government, that we have? No, not the *King*, and the *Biſhops*, if the Iniquity of the Times ſhould put them out; for they have Sworn, they *will not at any time endeavour any Alteration of Government, in Church or State*. Sirs! The Matter of this *Obligation*, being againſt the Fundamental Freedom of the *Subject* and *Parliament*, and the Words you ſee, ſo enſnaring, and that againſt the Duty all owe to the publick good; I offer it to you to conſider, in the firſt place, whether this *laſt Part* be according to *Righteouſneſs*?

For the *Middle part* of the Oath. Here is a Poſition of Taking Arms by the Kings Authority againſt any Commiſſionated

by him, which must be Sworn to, as *Abhor* and *Traiterous*. There is a Case, that hath been always in the Mouths of the Understanding, Refusers of this Oath and Subscription. Suppose some *Writ* Sued out, and comes to the *Sheriffs* Hands, and suppose persons come to oppose the Execution, by the Kings personal Command or Commission, and he thereupon raises the *Posse Comitatus* upon them; I will ask here, Whether the Sheriff act not herein by the King's Authority? I think it cannot be denyed. By the Kings Authority is all one, as by the *Laws*; and if he can Act so Justificially against any, for all their Commission, and the *Law* will bear him out; How is this Position in this Case *Traiterous*, and to be *Abhorred*? It were hardly now to be imagined, that it could be the intent of any *Parliament* in *England*, to advance the *Personal Will*, or *Commission* of the *King* above *Law*, which is to make his power *Despotical*, and not *Royal*. *Non est Rex* (says *Bracton*) *ubi Dominatur voluntas non Lex*. He is no King, that Governs by his Will, and not by *Law*. And how it should come to pass therefore, that he should enjoin this Point on indefinitely (without exception of the Case at least) to be Sworn to, as altogether Traiterous, I can never mechanics wonder enough.

What if any Souldiers should come with a Commission under the Seal, to raise Money without an Act of Parliament; and by vertue of such Commissions Seize our Goods, Rifle our Houses, and Ravish our Wives? May not the People, or our inferior Magistrates, or the *Sheriff* for the County, withstand such Violence? May not the *Constable* alone, from the *Justices* to keep the Peace, raise the Neighbourhood, and do it? If he may, or the Sheriff may, it must be in the Name of the *King*, or by Authority of the *Law*, and then there is some Case or Cases, where Arms or Force may be raised by the Authority of the King, against such as are *Commissionated* by him, though not against his *Sacred Person*. Nay, what if a Prince should go to ravish a Virgin, and she catches up the next Weapon, or Instrument that is at hand, to defend her Chastity; would such a *Sacrilidge* as that, make this Act of hers to be sinful, that is so Vertuous in it self? Suppose again, that Papists or Fanatics should either by *Power* or *Surprize* at any time; get a *King* in their Hand (as the Duke of *Guise* once dealt with the *French* King) and prevail with him, for fear of his Life to grant Commissions under his Hand and Seal, destructive to the Church and State; must the Nation be Remedilesse in this Case, and the King and Kingdom ruin'd by these Commissions? Nay, What security hath the Nation, that a Lord Keeper may not prove Traitor to his King and Country, and under the Broad-Seal grant Commissions to Disband his Majesties Life-Guard, deliver up the Navy, or Sea-Port Towns, seize on the Tower, and all places of Strength? In what a Condition were the King and Kingdom brought, if the Subjects Hands be bound up by an Oath not to resist, or take Arms against the Executiers of such Commissions, suppose but so long as till they understand his design, seeing by that time the Nation be past recovery? And who is there now, that will not be offended at the Sense, and turn'd at the Horror of these sad Consequences, into which such Tests and Injunctions (if not now seasonably Retrench'd) may lead our Posterity?

As for the *Form* thereof, the Words, *I abhor this Traiterous Position*, they are Harsh. The word *Abhor* especially was a Word of interest and passion, a cooler word as *I disown*, or *disallow*, might have served. Some of the most Gravell of the Nonconformists were much scandaized at that Word. A Man may say a thing is unlawful in his Conscience, when he cannot say, according to Truth, *I abhor it*. Well Sirs! When these words, *Abhor* and *Traiterous*, are so harsh in the *Composure*, and when such Cases as above-mentioned, and others may be put as to the Position in the *Matter* of it: I offer it in the next place, to Consideration, whether the *Middle part* of the Oath be according to *Truth*?

For the *First Part*, we have a large Assertion roundly Sworn. The Oath runs not only, that it is not lawful to take Arms against the King, and that it is not lawful on any pretence, but *on any Pretence* (or Cause) *whatsoever*. The Grammatical literal Construction of that Word seems to insinuate no less, than that this Proposition must be held without Restraint or Limitation. Among the most eminent Authors, which have wrote of the Power of Princes, and Establish'd it against Resistance in their Writings on this Subject: I suppose they are few or none to be leveled above these Three, *Barclay*, *Grotius*, *Arnisæus*; and we shall find, that they have all their restrictions or Cases of Exception, in the maintenance of this Tenet. And how could any learned Justice formerly be very earnest in punishing a Refusor, when if the matter was but scann'd, the reason why he refused, would be found only, because he had Read more than some others that yielded their Submission. I begin with *Barclay*, that is, *William Barclay*, a Scot and Countreloir to the *French* King: who writes against *Buchanan*, *Beuchel*, and other *Monarchomachists*, as he calls them. This learned Man endeavours to make his Prince to be above the whole People, that consequently no Arms can be taken against him: Nevertheless, when he comes to put some pressing Cases, he thus limits him. *Quid ergo nullane casus insidere possunt, quibus populo in Regem arma capere jure suo liceat? Nulli certe quam diu Rex manet. What then? Can there no Cases happen wherein it is lawful for the People to take Arms against the Kings right? None certainly so long as he remaines a King.* There are Cases indeed he accounts, in which a King doth, *exuere personam Regis*, or *Dominatu se exuere, put off the Person of a King*; and particularly (*l. 3. ch. 16.*) he mentions two: *Si regnum alienet: si Rem-publicam everterre conatur. If he go to Alienate his Kingdom: If he go to overthrow the Common-Wealth.* Let us come to a *Grotius*, and first quote him in his Judgment of *Barclay*, lest you may think else I mistake him. *Barclaius* (saies he) *Regis imperii licet Assertor fortissimus hoc tamen defendit, ut populo, ex insigni ejus parti jus concedit se tuendi adversus immanem sevitiam.* Barclay, *though the most strong Assertor of Kingly Government, does come to this, that he Grants a right to the People, or an Eminent part of, them, of defending themselves against intolerable Oppression.* For himself therefore, after he hath asserted this Tenet, *Summum imperium Regibus jure resisti non posse*, That the Higher Powers may not lawfully be resisted, from Scripture, Antiquity, Authority, and Example, to as much purpose perhaps as any, he descends to put *Seven* Cases; wherein he does, *Lectorem monere*, warn his Reader, *Ne putet in hanc legem delinquere eos qui revera non delinquunt*, Lest he mistake some for Delinquents in this matter, that are none. It will be too long, and needless to mention those Cases. For *Arnisæus*, he hath wrote three Learned Books of Politicks, *De jure Majestatus*, *De Doctrina Politica*, *De Authoritate Principum in Populum semper juridicabili, seu, Quod nulla ex causa subditus fas sit contra legitimum Principem arma sumere.* That the Authority of Princes over the People ought to be inviolable; or, That it is lawful for no cause to take up Arms against our lawful Prince. Here then we have our Tenet; but as to the stating it, he is forc'd to distinguish. There is *Rex*, and there is *Tyrannus*; a King, and a Tyrant: And there is *Tyrannus in Titulo*, and *Tyrannus in Exercitio*; A Tyrant in *Title*, and a Tyrant in *Practice*: And this he comes to in the issue, that *Tyrannus in Exercitio*, a Tyrant in Practice does, *Excidere de jure, & si Hereditario*, fall from his Right, though Hereditary. *Traditur Respublica Principi in cum finem* (saies he) *ut illi prosit in salutem omnium, a quo si prorsus discesserit, etiam de potestate cadit, quam non alio fine sibi commissam habebat.* The Common-wealth is delivered to the Prince, that he should rule over it for the common Safety; from which if he depart altogether, he falls even from the Power it self, which was committed to him only for this *End*. By such Testimonies as these, I would convince the Compilers of such Declarations, if they be alive, and any others that are yet of the same Spirit, with some Resentment and Shame, that when a temperate Sense and Meaning of them is such, as some good men have not stuck at; yet are they so Composed *in terminis*, as renders them not to be endured.

For the *Form* then yet of the *Words*. *I A. B. do Swear, That it is not lawful*, &c. Here is an Oath to the Matter of a Proposition questioned, to the Determination of a point of Conscience, and that diversly decided. An Oath should be to a *Matter of Fact*, and cannot be taken but to that whereof we are *certain*. To require of Men therefore to Swear to the *Verity* of a *Doctrine*, is not according to *Judgment*, being a thing impossible, because no man is *infallible*. Now then, Sirs! When here is such an *Erratum* in the *Composure*, as the want of the Words, *I believe*, or the like, *I Swear that I hold, or believe that it is not lawful*, &c. and so material an Exception, as the Judgment of the most Learned comes to, against the *Substance* in *Terminis*, of the first part of the Oath, which yet hath gone down ordinarily, without Chewing; I humbly offer it, in the third place, to be considered, how this Oath can be taken in Truth or in Judgment.

An *Oath* must be taken in *Judgment, Truth, and in Righteousness*. The *First part* is not according to *Judgment*; The *Second* not according to *Truth*; The *Third* not according to *Righteousness*.

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